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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Dario Chang

2893

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7590

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DARIO CHANG

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MIAMI, FL 33178

EXAMINER

BROWN, ALVIN L

ART UNIT

PAPER NUMBER

3622

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/605,894	Applicant(s) CHANG, DARIO	
	Examiner ALVIN L. BROWN	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a non-final, First Office Action on the merits. Claims 1- 13 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1 and 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent, a method/process claim must (1) tied to a particular machine or apparatus (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)). A method/process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here the claims fails to meet the above requirements because the steps are neither tied to another statutory class of invention (such as a particular apparatus) nor physically transform underlying subject matter (such as an article or materials) to a different state or thing.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cui et al., (20050021397) in view of Anderson et al., (20040093327).

As per claim 1, Cui discloses a method and system for Advertisers using Cycle Hits and Hits History, wherein a website promoter is charged in proportion to the Hits History score value of each webpage or account, increasing in this way a dynamic system of price for each keywords; wherein promoters with similar Hits History are segmented in group related to their Hits History score value and/or business size, wherein each group have an score value that will influence the cost to keep the Ads listed, groups and promoter with higher Hits History will have to pay a higher price to be listed, the cycle will end when promoters reach their top price to keep their Ad listed, as a result Ad is unlisted for a short period and listed again at the minimum entry fee for each group with similar Hits History, as promoters without Hits History will list their Ad paying a minimum entry fee meanwhile they create a Hits History related to their account (paragraphs [0011-0012, 0051]).

Cui does not explicitly disclose each client has one unique account identifier that could be related to their business, webpage, or tracking system used by marketing media, search engine and internet network.

However, Anderson discloses one unique account identifier that could be related to their business, webpage, or tracking system used by marketing media, search engine and internet network (paragraph [0098]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add Anderson's unique identifier to Cui's hits ranking.

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One would be motivated to do this in order to an improved method of ranking advertisements.

As per claim 2, Cui further discloses the accounts with similar Hits History and cycle Hits History can be grouped, tracked and stored in a server database, wherein an automatic Hits History score generates a value that match the account with a group, comprising a combination of Score Value that uses at least one of this elements: similar Hits History score value; period of time displayed score value; similar website traffic score value; similar budget size score value; similar terms and keywords value, similar type of business and/or company earning (accounting) score value; similar sell season score value; rotation group score value; placement score value; popularity score value; account credit score value and rotation and exchange groups used with partners value (paragraphs [0083, 0103]).

As per claim 3, Anderson further discloses pay Advertisements (or Ads) will appear in the listing results list page, generated by search engine, as a result of generated search result list substantially in real time, in response to a search request from a searcher using a computer network, comprising: maintaining a database including Hits History groups associated with popularity of search listings; wherein each search listing is associated with a network location; at least one search term; that is associated with a Hits History group and Ads; related to grouped accounts with similar search term, keywords or description (paragraphs [0083, 0106]).

As per claim 4, Cui further discloses the Cycle Hits History began with the placement of Ads related to clients accounts, wherein a client defines his budget to

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keep the Ads listed in the group, with the option to use caps related to a position into the group, as continuous Hits on the Ads creates a score value that rises the price for the client to keep the Ads listed, when the client reaches their top price or cap, the Ad is unlisted for a period of time, after that period, the Ad can be listed again into the group, paying a minimum entry fee related to each group previous average Hits History score value, as cost to keep the Ad listed will rise again in relation to the score value and relative to the amount of Hits the Ad gets to the end of the cycle, allowing search engine or directory to have a dynamic use of listing space, especially in groups with high density associated to popular search terms or keywords (paragraph [0048]).

As per claim 5, Cui further discloses allowing the option for the search engine to use rotation system into each group to create a dynamic placement, which also means that the price can be associate to number of rotation that client defines into the same group, exchange group in the same network, or group using partner's network (paragraph 0162]).

As per claim 6, Cui further discloses allowing exchange group rotation system, compromising different search engine or partners connected to a common database of clients account, wherein Advertisers can display their Ads in a rotation matter form one search engine to other, into a similar Hits History group, priced for the option to be rotated into a list of search engine participants, same search terms and keyword, as rotation group allow the Ads to be rotated through a list of search engine participants comprising at least one of this elements: similar Hits History group, period of time

displayed in each page participants, similar amount of Hits per each page participants, similar budget size (paragraphs [0026]).

As per claim 7, Cui further discloses allowing a common database of clients waiting list, referring to promoters that wait for a position when a group is full, or clients that determinate a range price they want to pay for displaying their Ad, where clients may be grouped by similar keywords and term, similar budget size, or range price determinate by clients; then the search engine participants with access to the database can post offers to the clients, allowing a bidding process between search engine participants to get a large group of clients to be listed in their engine, as a result, the best search engine offer win a group of clients to optimize their listing space (paragraphs 0026]).

As per claim 8, Cui further discloses groups that compromise more elements, have a highest score value and a preferred position in the listing, online media or search engine network will also influence the score value of each element to balance the groups, as groups with low score value will have less elements and less preferred placement, as each group will have a number of assigned rotation placement spot, where any client can enter, paying an entry fee related to this group and type of spot, as price will rise in relation to display time and/or Hits History score the Ads get in the process (paragraphs [0054]).

As per claim 9, Cui further discloses providing a placement using cycle Hits History and Hits History structure to price listing: on webpage, listings in a pay for placement database search system, search engine, directory, internet network, and

other form of marketing media; Hits History compromises also a continuous rise of Ad's cost, in relation to each group Hits History, and value generated by continuous Hits per Ads into each group (paragraphs [0015, 0048]).

As per claim 10, Cui further discloses Hits History Score Value system have the ability to integrate any part of their elements as an improvement, to currents online marketing media (paragraph [0099]).

As per claim 11, Cui discloses a method of placement an interactive pay Ad in search engine internet network, using cycle Hits History, wherein each Ad gives the user the possibility to use a button that play or stop voice message, video or graphic format, related to search term and keyword selected by user on search engine page result on the internet network (paragraphs [0009, 0010]).

As per claim 12, Cui further discloses a method of placement according to claim 11, wherein interactive Ads are linked to multimedia file data objects with metadata; as Swfs and Flash to display interactive low-bandwidth multimedia Ads, as a result of keyword search term generated by the search engine network, the Ads can use a button to play or stop a voice or video file related to the Ad for more info, as searcher can also click hyperlink to go to promoter website (paragraphs [0009-0010, 0050]).

As per claim 13, Cui further discloses many modifications and variations may be devised given the above description of the principles elements of the invention and It is intended that all such modifications and variations be considered as within the spirit, scope and subject matter of this invention (abstract).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALVIN L. BROWN whose telephone number is (571)270-5109. The examiner can normally be reached on Monday - Thursday 7:30 AM to 5:00 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571 272 6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALB

/Arthur Duran/
Primary Examiner, Art Unit 3622